SUPREME COURT OF THE UNITED STATES.

No. 205.

THE UNITED STATES, APPELLANTS,

vs.

MARIA ANTONIA DE LA GUERRA Y LATAILLADE.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

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GIDEON, Print.

Transcript of the proceedings in case No. 189—*Maria Antonia de la Guerra y Lataillade, claimants,* vs. *The United States, defendant—for the place named "Corral de Cuáte."*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

Be it remembered, that on this twentieth day of April, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Maria Antonia de la Guerra y Lataillade, for the place named "Corral de Cuate," was presented, and ordered to be filed and docketed with No. 189, and is as follows, to wit:

(Vide page 3 of this Transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, *December* 31*st*, 1852.

In case No. 189, Maria Antonia de la Guerra y Lataillade, for the place named "Corral de Cuate," the deposition of José Ma. Corrarubias, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, with documents marked H.H, No. 1, annexed thereto, was filed.

(Vide page 4 of this Transcript.)

SAN FRANCISCO, *Aug.* 15*th*, 1853.

Case No. 189, Maria Antonia de la Guerra y Lataillade, for the place named "Corral de Cuate," called, submitted on briefs, and taken under advisement.

SAN FRANCISCO, *Nov.* 22*d*, 1853.

In the same case, Commissioner Felch delivered the opinion of the board confirming the claim.

(Vide page 34 of this Transcript.)

Petition.

To the honorable Commissioners to settle private land claims in California:

The petitioner, Maria Antonia de la Guerra y Lataillade, respectfully shows:

That on the 21st day of April, 1845, Augustin Donila applied for the tract of land called "Corral de Cuarte," and that said petition being

approved by the subordinate authorities, Pio Pico, governor of California, by virtue of authority in him vested, on the 14th day of November, A. D. 1845, granted to the said Augustin Donila the aforesaid tract of land, situated in the present county of Santa Barbara, containing three square leagues of land, with the boundaries described in the title-papers and accompanying map; that on the 9th day of June, A. D. 1846, the said title was approved in the departmental assembly, annulling the 2d and 3d conditions in the title, all of which is shown in the espediente, a certified copy of which is submitted herewith, marked "A," and a translation marked "B;" the petitioner also submits herewith a copy of the title marked "C," with a translation marked "D."

The petitioner also shows, that on the 24th day of August, A. D. 1847, the same Augustin Donila sold and conveyed to the petitioner the aforesaid tract of land; a copy of which deed of conveyance is submitted herewith marked "E," with a translation marked "F."

That the said tract of land has not been surveyed by the Surveyor General of the United States, but that its boundaries are fully described in the title-papers and are well known.

That the said Donila and the petitioner have been, since the month of November, A. D. 1845, and the petitioner now is, in the quiet, peaceful and undisputed possession of the said tract of land, and that she knows of no conflicting claim.

That she relies for confirmation of title upon the original papers, copies of which are submitted herewith, upon the records in the archives now under the charge of the surveyor general, and upon such other and further proofs as she may be advised are necessary.

Wherefore she prays the commissioners to confirm to her the said tract of land.

By her attorneys:
HALLECK, PEACHY & BILLINGS.

Filed in office, April 20th, 1852.
GEO. FISHER, *Sec'y.*

Deposition of José M. Covarubias.

SAN FRANCISCO, *Dec.* 31*st*, 1852.

On this day, before Com'r Hiland Hall, came José Maria Covarubias, a witness in behalf of the claimant, Maria Antonia de la Guerra y Lataillade, petition No. 189, and was duly sworn, his evidence being given in Spanish and interpreted by the secretary.

The United States associate law agent was present.

In answer to inquiries by counsel for the claimant, the witness testified as follows:

My name is José Maria Covarrubias; my age is 44 years; I reside in Santa Barbara, and have lived in California 18 years.

I am acquainted with the signatures of Pio Pico, Antonio Carillo, Augustin Davila, José Linares, Augustin Yansens, Luis Carillo, Maria

Antonia de la Guerra de la Lataillade, Jwne. J. Sparks, and José Lugo. Their signatures to the paper before me, marked H.H, No. 1, are genuine; my own signatures to these papers are genuine; the land described in these papers was occupied by Donila, the grantee, very soon after the grant; since 1847 it has been occupied by Mrs. Lataillade, with a house, cattle and horses; Donila planted a vineyard on it.

JOSE M'A CAVARRUBIAS.

Sworn and subscribed before me,

HILAND HALL, *Com'r.*

Filed in office, Dec'r 31, 1852.

GEO. FISHER, *Sec'y.*

1845.

"A."—*Espediente promovido por Dn. Agustin Davila en pretencion del terreno nombrado Corral del Cuate.*

(479.)

Ex'mo S'or:

Agustin Davila y Juan Camarillo, vecinos de Sta. Barbara, anto la justificacion de V. E., y como mejor proseda esponemos; que teniendo un numero bastante considerable de ganado mayor, y caballos careciendo de un terreno para el poniento de ellos, y al efecto emos indagado que se halla uno enteramente valdio en la jurisdicion de Sta. Ynes, con el nombre del Corral del Cuate, con solamente el obstaculo de un corral, mas por cual emos convenido con el Ro. P. de la espresado mission que por d'ho corral satisfaseremos el valor de trescientos pesos en efectivo, y el poco ganado alsado que en d'ho terreno se haya podra disponer el Ro. P. cuando lo hallara conveniente como se vera, en el documente qr. por el Ro. P. obtengo é igualmente acompaño a esta nuestra solicitud.

El terreno que se solicita es hasta tres sitios, poco mas ó menos de ganado mayor como se demarca en el adjunto diseño que accompañarmos.

Por tanto, a V. E. suplicamos se digne concerdinos la propiedad de d'ho terreno, con las protestas de estilo.

Serviendose admitir la presente solicitud en papel comunpr. no hacer del sellado que corresponde.

Sta. Barbara, 21 de Abril, de 1845.

AGUSTIN DAVILA,
JUAN CARILLO.

ANGELES, *Julio* 5, *de* 1845.

Pase á la comission de missiones para que informe si el terreno que se pretende, puede ser consedido sin per juicio del anendamente que debe hacerse de la mision de Sta. Inez.

PICO.

El terreno q'l solicita en esta instancia noes de necesidad á la mision, ni tampoco se perjudica el arendatario debiendo advertir q'l el S'or Dn. Juan Carillo á retirado su instancia, y solo el S'or Davila pagará el corral que se allo en el terreno si el gobierno tubiere á bien considerlo.

Sta. Inez, Julio 28, de 1845.

JUAN MANZO,
ANDRES PICO.

ANGELES, *Noviembre* 14, *de* 1845.

Vista la solicitud con queda principio este espediente el informe de la comision de misiones, con la demas que se tuvo presente y ver convino; de conformidad con la ley de 18 de Agosto, de 1824, y reglamente de 21 de Noviembre, de 1828, declaro á Dn. Agustin Davila dueño en propiedad de tres sitios de ganado mayor, en el terreno conocido con el nombre de Cañada del Cuate, inmediato a la mision de Sta. Ynez, en consequencia estiendiosele el correspondiente titulo bajo las condiciones de titulo, y ademas con las siguientes:

1o. No perjudicará en manera alguna el ganado mayor, y sus pracreos que en el terreno concedido tiene y tenga la mision de Sta. Ines, cuyos arendatanos tendran el derecho de tomar de aquel ganado cuando bien los parezca sin impedemiento alguno por parte del agradecido.

2o. La mision de S'ta Ynez osus anéndatarios tendran derecho para tener y mantener en el mismo terreno concedido el ganado, caballdo cronco y manso y sus procreos, asi como los bueyes que se reconozcan ser de las pertenencia de dicha mision.

3o. La presente concesion esta sujeta á los linderos de los terrenos de Joaquin Carillo y Dn. José Ma. Cavarrubias, de Dn. Octiviano Gutierez, Don Julian Foxon del colegio Espiscopal, y de los indigenas Antonio y Marcelino, y por tanto el agraciado los respetera siempre conforme, consten en las posessions judiciales que obtengan los espresados, individuos y seminario episcopal.

4o. Cuando sea requirido por el gobierno departamental, pagará el agraciado en indemnizacion del corral que la mision de S'ta Ynez, tiene en el terreno que se le concede la cantidad de cien pesos; a alguno de los acreadores á la espresado mision.

5o. El terreno de que se le hace donacion es puramente de la estension de tres sitios de ganado mayor. El juez respectivo lo posesionará en virtud del titulo, senalará los linderos empezando las mediciones desde los de Dn. Julian Foxon, y si resulta algun sobrante de tierra que dará en beneficio de la nacion para los usos que le convenga.

Archvase el espediente y sometaré esta concesion á la aprobacion de la E. asemblea.

PIO PICO.

[*For map see original, between pages* 8 *and* 9.]

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S'TA YNEZ, *Ab'l* 20, *de* 1845.

Mi Estimado D. AGUSTIN:

Quedo impuesto de su carta de 19 del pres'te, en la que mi hace presente que el S'or gobernador, decia el que pinto con la instancia vaya el informe para evitar pasos pices supuesto este desea de S. E. digo; que con la condicion que V. pone de no impedir esté en el terreno que solicita el ganado alzado de la mision, y tampoco pondra embaraso para sacarlo cuando convenga; soy de parecer se le puede con ceder pues pagado el corral no sesique perjuicio á la mision no teniendo otra cosa en el sitio.

Su capp'a y serv'o,

FR. JOSE J. HIMENO.

NOTE.—(The original letter of which the above and the writing on the next page is a copy, is directed as follows: S. D. K.)

Al S. D. Augustin Davila, S'ta Ynez.

Nicolas A. Den, Alcalde 1o. del Partido de S'ta Barbara.

Certifico que los ciudadanos Augustin Davila y Juan Camarillo, tienen con que poder cubrir el terreno que solicitan que dicho terreno si brayó á la los valdio con algunos bienes algado, y a pedimt'o de los interezados los doy la presente.

En Santa Barbara, á 23d de Abril, de 1845.

NICOLAS A. DEN.

Pio Pico, vocal decano de la asamblea departamental, y gobernador provisional de las Californias, por ministerio constitucionel:

Por cuanto Dn. Agustin Davila, ha pretendido para su beneficio personal y el de su familia el terreno conocido con el nombre del Corral del Cuate; practicadas previamente las avenguaciones concernientes segun lo dispuesto por leyes y reglamentos de la materia, usando de las facultades que mi son conferidas á nombre de la nacion Mejicana, he venido por decreto en este dia en concederle el espresado terreno declarandole la propiedad de el por las presentes letras de conformidad con la ley de 21 de Noviembre, de 1828, á reserva de la aprobacion de la ex'ma asemblea departamental, y bajo las condiciones siguientes:

1o. Podra cercarlo sin perjudicar las travesias y servidumbres, lo destinara al uso y cultivo que mas le acomode pero dentro de un año, fabricara casa en el estara habitada y lo ocupará, con un numero correspondiente bienes removientes.

2o. No perjudicara en manera alguno el ganado mayor alzado, y sus procreos que en el terreno conocido tiene y tenga la mision del S'ta Ynez, cuyos anendatarios tendran esclusivo derecho de tomar y cuidar a quel ganado como bien los parezca sin impedimiento alguno puparto del agraciado.

3o. La Mision de Sta. Ynez ó sus anendatarios tendran derecho para tener y partear en el mismo terreno concidido, el ganado caballado bronco y manso y sus productos, asi como los bueyes que se reconozcan ser de la pertenecia de dicha mision.

4o. La presente concesion esta y estará sugeta a los linderos de los terrenos de Don Joaquin Carillo y Don Jose Ma. Cavarrubias, de D. Octiviano Gutierez, Don Julian Foxon, del colegio Episcopal, y de los indigenas Antonio y Marcellino; y por tanto el agraciado respetera siempre dichos linderos conforme consten en las posessiones judiciales que obtengan los espresados, individuos y Colegio Episcopal.

5o. Cuando sea requirido por el gobierno departamental, pagaia el agraciado indemnization del corral que la Mision de Sta. Ynez tiene en el terreno que se le concede, la cantidad de cienpesos, á alguno de los acredores de la espresarla mision.

6o. El terreno de que se le hace donacion es puramente de la estension de tres sitios de ganado mayor.

El juez respectivo lo posesionara en virtud de este despacho, lo hara medir conforme á ordenanza empresando desde los linderos de Don Julian Foxon, y si resulta algun sobrante de tierra que dará en beneficio de la nacion para los usos que le conbenga.

7o. Si contraviniese á estas condiciones perdera, su derecho al terreno y sera denunciable por otro.

En consecuencia mando que teniendose el presente titulo por firme y validero, se tome razon de el en el libro respectivo y se entregue al interesado para su resguardo y demas fines. Dado en la Ciudad de Los Angeles, á catorce de Noviembre, de mil ochocientos cuarenta a cinco.

Queda tomada razon de este titulo en el libro á que corresponde.

ANGELES, *Mayo* 8, *de* 1846.

Dada cuenta en sesion de hoy con este espediente a la Ex'ma Asamblea departmental, se mando pasar á la comision de terrenos valdios.

AGUSTIN OLVERA, *D. S.*

PIO PICO, *Presto.*

Senor:

La comission de terrenos valdios á examinado el presente espediente, promovido pr. el ciudadano Agustin Davila relativo al parage nombrado Corral de Cuate, ql. le fue concedido pr. el superior gobierno departamental, con f'ha 14 de S'bre ultimo.

La comision adverte ql. al agraciado se le sugeta en la condicion 3o. de tal modo que podrá disfrutar este terreno libre y esclusivamente, pues se ve en la condicion citada ql. la mision ó arrendatario de la de Sta. Ynez, pueden establecer alli toda clase de vienes removientos y hasta quien cuide de ellos, segun la condicion 2o; en esto concepto la comision consecuente á lo ql. V. E. aprobo en secion de 18 del pasado en que ya no se considero otra mision arrendado sino con el caracter de fincas particularles, pr. lo que se suprimo la condicion ql. sugeterá á aquel agraciado á no impedir el uso de terras de siembra cuando aquella las necesitare, es de opinion esta comision ql. con arreglo á aquel acuerdo se suprima la condicion 3o. del titulo á ql. se refiere en

razon de concederle ya la mision de Sta. Ynez una finca particular, y no con el derecho ql. le dara á estas escenciones cuando se consideraran comunicados, y por la misma razon no debe tener efecto la condicion 2o. aunque fue convenio del agracido con el P. Ministro de aquella mision, segun aparece en esto espediente. En vista de lo espuesto la comision pone a la mejor deliberacion de V. E. la proposicion siguiente:

Se aprueba la concesion hecha al ciudadano Agustin Davila del parage conocido Corral del Cuate, jurisdiccion de Sta. Barbara, que dando suprimidas las conditiones 2o. y 3o. del titulo espedido á su favor, con f'ha 14 de Noviembre del año po. pas, y en conformidad conla la ley de 18 de Agosto, 1824, y articulo 5 del reglamento de 21 de S'bre de 1828, en estension de tres sitios de ganado mayor.

Sala de coms., en la ciudad de los Angeles, Junio 9, 1846.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, Surveyor General of the United States for the State of California, and as such now having in my office, and under my charge and control, a portion of the archives of the former Spanish and Mexican territory or department of Upper California, do hereby certify, that the fifteen preceding and hereunto annexed pages of tracing paper, numbered from one to fifteen inclusive, and each of which is verified by my initials (S. D. K.), exhibit true and accurate copies of certain documents on file, and forming part of the said archives in this office.

In testimony whereof I have hereunto signed my name officially and affixed my private seal, (not having a seal of office,) at [S. D. K.] the city of San Francisco, California, this fourth day of February, 1852.

SAM'L D. KING,
Sur. Gen'l Cal.

Filed in office, April 20th, 1852.

GEO. FISHER, *Sec'y.*

"B."—*Translation of Espediente.*

Most Excellent Sir:

We, Agustin Davila and Juan Camarillo, residents of Santa Barbara, before the justification of your excellency, and as we best may represent, that having a considerable number of large cattle and horses, being in want of a place for their improvement, we examined a place with that object, which place is entirely vacant, in the jurisdiction of Santa Ynez, named "El Corral del Cuate," the only obstacle being a corral; but we have agreed with the reverend father of the said mission to pay for said corral the amount of three hundred dollars, in goods; and as for the few wild cattle which on said lands are found, the rev. father may dispose of them when he may find it convenient, as will be

seen by the document we have obtained from the rev. father, and also transmit with this, our petition. The land solicited is as much as three square leagues, a little more or less, as shown by the annexed map, which we transmit.

Wherefore we pray your excellency to have the goodness to grant us the ownership of the said land; we make the usual protestations.

And be pleased to admit this present petition on common paper, there being none of the corresponding stamp.

Santa Barbara, April 21, 1845.

(Signed) AGUSTIN DAVILA,
(Signed) JUAN CAMARILLO.

ANGELES, *July 5th*, 1845.

Let this be passed to the committee on missions, to report whether the land petitioned for can be granted without prejudice to the leaving which is to be made of said Mission of Santa Inez.

(Sign'd) PICO.

The land asked for in this petition is not necessary for the mission, neither will the lessees be prejudiced by it. It should be observed that Don Juan Camarillo has withdrawn his petition, and Señor Davila alone will pay for the corral which is on the land, if the government should think proper to grant it.

Santa Ynez, July 28th, 1845.

(Sign'd) ANDRES PICO,
(Sign'd) JUAN MANSO.

ANGELES, *November 14th*, 1845.

Having seen the petition with this espediente, commences the report of the committee on missions, with all other things which were represented and deemed proper to be seen, in conformity with the law of August 18th, 1824, and the regulation of November 21, 1828, I declare Don Agustin Davila owner in fee of three square leagues on the land known by the name of *Cañada del Cuate*, near the Mission of Santa Ynez; in consequence, let the corresponding title be issued with the usual conditions, and in addition with the following:

1st. He shall not in any manner prejudice the large cattle and their increase, which the mission of Santa Ynez may have in the land now granted the lessees, of which (mission) will have the right to take of these cattle whenever they may see fit, without any hindrance on the part of the grantee.

2d. The Mission of Santa Ynez, or its lessees, will have the right to keep and maintain on the same land granted, the horses, both wild and tame, and their increase, and also the oxen which may be recognised as the property of said mission. 3d. The present grant is subject to the boundaries of the lands of Don Joaquin Carillo and Don José Maria Covarrubias, Don Octiviano Gutierez, Don Julian Foxon of the

Episcopal College, and of the Indians Antonio and Marcelino; and consequently the grantee will always respect them as they appear in the respective judicial possession which the aforesaid persons and the Episcopal seminary may have.

4th. When the departamental government, the grantee, shall pay as an indemnity for the corral which the Mission of Santa Ynez has on the land granted, the sum of one hundred dollars to any of the creditors of the said mission. 5th. The land of which donation is made him is of the extent of three square leagues only. The proper magistrate will put him in possession in virtue of the title, and mark out the boundaries, commencing the measurement at the boundary of D'n Julian Foxon, and if there result any surplus of land it shall remain for the benefit of the nation for the convenient uses. Let the espediente be filed, and submit this concession for the approval of the most excellent assembly.

(Signed) PIO PICO.

SANTA YNEZ, *April* 20, 1845.

To Don AUGUSTIN DAVILA, *Santa Ynez:*

My esteemed Don Agustin: I have examined your favor of the 19th inst., in which you represent to me that his excellency the governor desires, that with your petition the report should be sent, in order to save trouble; and this being his excellency's wish, I say, that with the conditions you propose, that the wild cattle of the mission may remain on the land; and also that there shall be no hindrance to withdraw them when it may be convenient. I am of opinion that it may be granted, as the corral being paid for, no prejudice will accrue to the mission, it having nothing else on the land.

(Signed) FR. JOSE J. JIMENO.

Nicolas A. Den, 1st Alcalde of the Partido of Santa Barbara.

I certify, that citizen Augustin Davila and Juan Camarillo have property with which to stock the land they petition for; that said land is at this time vacant, except a few wild cattle; and at the petition of the persons interested I give this present in Santa Barbara, on the 23d of April, 1845.

(Signed) NICOLAS A. DEN.

[For translation of title see Exhibit "D."]

ANGELES, *May 8th*, 1846.

This espediente having been reported to the most excellent departmental assembly in session of this day, it was ordered to be passed to the committee on vacant land.

(Signed) PIO PICO.

(Signed)—AGUSTIN OLVERA,
Deputy Secretary.

[REC. CCV, D. T., 1855.]—2

SIR: The committee on vacant lands has examined the present espediente, formed by citizen Augustin Davila, relative to the place named Corral de Cuate, which was granted to him by the superior departmental government on the 14th of November ulto. The committee observes that the grantee is so limited by the 3d condition that he cannot enjoy this land freely and exclusively; for it is seen, by the aforementioned conditions, that the missions or lessee of Santa Ynez can establish there any kind of self-moving property, and even a person to take care of it, as in condition 2. In this view, and in consequence of that which your exc'y approved on the 18th ulto., in which another mission land was considered only in the character of a private establishment—for which reason the condition, that the grantee should permit the use of the planting grounds when it (it, the mission) may need them, was suppressed—this committee is of opinion that, in conformity with that decision, the 3d condition of the title referred to should be suppressed, because the mission of Santa Ynes is now considered as a private establishment, and as not having the right to these privileges as when they were considered common; and for the same reason the 2d condition ought not to have any effect, although it was by agreement between the father minister of that mission and the grantee, as appears by the espediente. In view of the foregoing, the committee reports for the deliberation of your exc'y the following proposition. viz:

They approve the grant made to citizen Agustin Davila of the place known as Corral del Cuate, in the jurisdiction of Santa Barbara—the conditions 2d and 3d being suppressed in the title issued in his favor, dated Nov'r 14 of last year, and in conformity with the law of August 18th, 1824, and article 5th of the regulation of November 21, 1828—in extent three square leagues.

Hall of Committees, in the city of Los Angeles, June 9th, 1846.

(Signed) S. ARGUELLO.
C. E.
R. P.

Filed in office, April 20th, 1852.

GEO. FISHER, *Sec'y.*

"C."—*Document H.H, No.* 1.

Sello Primero, Ocho Pesos.

Habilitado provisionalmente por la Aduana Maritima del puerto de Monterey en el departamental de las Californias, para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

PABLO DE LA GUERRA.

MICHELTORENA.

[Ada. Marita. de Mont'y. Place of the Eagle] Pio Pico, vocal decano de la asamblea departamental, y gobernador provisional de las Californias por ministerio constitucional.

Por cuanto Dn. Augustin Davila ha pretendido para su beneficio personal, y el de su familia, el terreno conocido con el nombre de Corral

del Cuate; practicadas previamente las averiguaciones concernientes segun lo dispuesto per leyes y reglamento de la materia, usando de las facultades que me son conferidas, a nombre de la nacion Mexicana; he venido por decreto de este dia en concerderle el espresado terreno; declarandole la propriedad de el por las presentes letras de conformidad con la ley de 18 de Agosto, de 1824, y reglamento de 21 de Noviembre, de 1828, a reserva de la aprobacion de la exc'ma asamblea departamental y bajo las condiciones siguientes:

1o. Podra cercarlo sin perjudicar las travesias y servidumbres; lo destinará a los y cultivo que mas le acomode; pero dentro de un año fabricará cosa en el, estará habilitada y lo ocupará con un numero correspondiente de bienes se movientes.

2o. No perjudicará en manera alguna el ganado mayor alzado y sus procreos que en el terreno conocido tiene, y tenga la mision de Santa Ynez, cayos anendatanos tendran esclusivo derecho de tomar y cuidar aquil ganado como bien les parez ca sin impedemiento alguno perparto del agraciado.

3o. La mision de Santa Ynez ó sus arrendatarios tendran derecho para tener y partear en el mismo terreno concedido el ganado caballar, bronco y manso y sus productos, asi como las bueyes que si reconozcan ser de la pertenencia de dicha mision.

4a. La presente concesion esta y estará sugeta á los linderos de los terrenos de Don Joaquin Carillo y Dn. José Ma. Cavarrubias, de Dn. Octiviano Gutierez, Dn. Julian Foxon de colegio Episcopal, y de los indigenos Antonio y Marcelino, y por tanto el agraciado respeterá siempre dichos linderos, conforme consten en las possesiones judiciales que obtengan los espresados, individuos y colegio Episcopal.

5a. Cuando sea requirido por el gobierno departamental pazará el agraciado en indemnizacion del corral que la mision de Santa Ynez tiene en el terreno, que serle concede, la cantidad de cien pesos; á alguno de los acredores á la espresada mision.

6a. El terreno de que se hace donacion es puramente de la estencion de tres sitios de ganado mayor. El juez respectivo lo posesionará en virtud de este despacho, lo hara medir confirme á ordenanza empesando des de los linderos de Dn. Julian Foxon, y se resulta algun sobrante de tierra que dará en beneficio de la nacion para los usos le convenga.

7a. Si contraviniese á estas condiciones perderá su derecho al terreno, y será denunciable por otro.

En consecuencia mando que teniendose el presente titulo por firme y validero se entregue al interesado para su resguardo y demas fines. Dado en la ciudad de Los Angeles, á catorce de Noviembre, de mil ochocientos cuarenta y cinco.

PIO PICO.
JOSE MA. COVARRUBIAS, *S'rio.*

Queda tomado razon de este titulo en el libro respectivo.
Angeles, fecha ut supra.

COVARRUBIAS.

El Ex'mo S'or Gobernador despone se tome razon de este despacho en la sub-prefectura de S'ta Barbara.

COVARRUBIAS.

En cumplimiento de la superior disposicion que antecede, queda tomada razon de este titulo en el libro respectivo de esta sub-pref'a.

S'ta Barbara, N'bre, veinte y cinco, de mil ochocientos cuarenta y cinco.

ANAST'O CARRILLO.

[*For map see original, between pages* 21 *and* 22.]

El que suscribe Secretario del Gobierno de las Californias.

Certifico que la presente capia es fulmente sacada del diseño original, que obra en el espediente promovido por Don Augustin Davila, en pretension del terreno nombrado Corral del Cuate.

Angeles, Noviembre 14, de 1845.

JOSE MA. COVARRUBIAS.

En el puerto de S'ta Barbara, a los veinte y cuatro dias del mes de Agosto, de mil ochocientos cuarenta y siete, ante me, Luis Carrillo, Juez, segundo de este partido, con egercicio del de primero por asisencia del proprietario, y por ante los testigos de mi assistencia con quienes actuo por receptoria á falta de escribano publico, á mas los instrumentales que alfin se denominaran comparecio el Ciudadano Agustin Davila, á quien doy fé conozco y dijo. Que por si, y á nombre de sus herederos y sucesores y de quien de ellos hubiere titulo, voz causa en cualquiera manera, vende y da en venta real y enajenacion perpetua por juro de brevidad para siempre Jamas, á la Señora Doña Maria Antonia de la Guerra de Lataillade, á quien doy fé conozco presente y aceptante, y á los suyos el rancho que tiene de su propiedad conocido con el nombre de "Corral del Cuate," jurisdicion de Santa Ynes, que colinda por el norte con el rancho de Julian Foxon, por el sur con el de Don Joaquin Carrillo y Don José Maria Covarrubias, por el este con el del Indio Marcelino y Colegio Episcopal, y por el oeste con los terrenos de Octiviano Gutierez, el cual terreno contiene tres sitios de ganado mayor, de todo lo que hace entrega su debida forma à Doña Maria Antonia de la Guerra de Lataillade, con una casita de palo parado, una viña y cercos para sumbras esceptuando solo los bienes semivientes, en cayo rancho tiene derecho por haber selo concedido el gobierno departamental, con fecha de catorce de Noviembre, de mil ochocientos cuarenta y cinco, por cuyo titulo le corresponde en possesion y propiedad el cual declara y aseguara no tenerlo, vendido, enagenado ni empeñado, ni del todo ni

parte, y esta libre de tributo, menoria capellania, vinculo fianza, y de otro gravamen real, perpetuo, temporal, especial, jeneral, tacito y espreso y como tal se lo vende, quedando á entregarlo en la forma y disposicion que particularmente hace convenido en la cantidad de "nueve cientos pesos" los que declara el vendedor tener parte recibido por convenio celebrado con la compradora y el resto a plaza de tres meses, y por lo tanto renuncia la escepcion que pudiera oponerle por no contar de presente la ley y titulo 10, parte 5o formaliza, a favor de la compradora la mas firme y efecias carta de pago, que á su seguridad cinduzca, y asi mismo declara el vendedor que ha hecho esta venta por no poder ocuparlo por falta de recurso; y hallarse por lo mismo en caso de denuncio, y asi mismo declara que los nueve cientos pesos que le han dado los ha recibido y recibira de la Señora Doña Maria Antonia de la Guerra de Lataillade, como por via de indemnizacion voluntaria, y no hallo quien mas le diera por el espresado parage, y si mas vale ó valor pueda del exceso en poca ó mucha suma hace á favor de la compradora, sus herederos y sucesores gracia y donacion pona mera, perfecta irrevocable en sanidad con insinuacion y demas firmezas legales y renuncia la ley 2o, titulo 10, libro 10, para recopilacion que trata de los contratos de ventas, trueque y de otro en que hai lesion en mas ó menos de la mitad de sa justo precio y los cuatro años, que prefija para pedir su recicision ó suplemento á su justo valor, los que da pasados como su efectivamente estuvieran y desde hoi en adelante para siempre se desapodera, desirte, quita y aparta, á sus heredores y sucesdores, del dominio propriedad posescion, que le competa al enunciado terreno le cede renuncia y traspasa con las acciones reales, y personales, utiles y mistas directas y efectivas, en la compradora y en quien la suya represente para que lo posee cambie enajene use y disponga de el á su elecion, como de cosa suya adquerida como lejitimo y justo titulo, le confiere poder irrevocable con libre franca y jeneral administracion y la constituye procuradora actora en su propia causa, para que de su autoridad o judicialmente entre y se apodere del enunciado rancho "Corral del Cuate," y de el tome y aprehenda la real tenencia y posecion que por derecho le compete, y para que no persista tomarla pidiere le copia autorizada por la presente escritura con lo cual sin otro acto de aprehencion, ha de ser visto haberla tomado aprehendido y transferidosele, y en el interino se constituye su inquilino tenedor, precario, poscedor en legal forma y su obliga á que dicho rancho será cierto seguro y efectivo á la compradora y nadie la inquieterá ni movera pleito sobre su propiedad, posescion goce dispute ni contra el aparecera gravamen alguno y si se le inquietare, moviere apareciere luego que el otorgante ó sus herederos y sucesores, sean requiridos confirme á derecho saldran a su defensa y seguiran á sus espensas en todo instancia y tribunales hasta ejecutoriarles y dejar á la compradora y à los suyos libre uso, quieta y pacifica posescion, y no pudiendo conseguirlo le dara otro igual en valor del sitio venta y comodidad, y en su defecto le restituira la contidad que ha desembolzado, las mejores utiles precisas y voluntarias que a la sazon tenga de mayor valor y estimacion que

con el tiempo adquira de todas las costas gastos, y menorcabos que se le siguieren ó erogaren, por todo lo cual se les ha depoder ejecutar en virtud de esta escritura y juramento del que la, ó de quienes la representan en quien defiere su importe; y lo releve de otra prueba y a la observancia de todo le referido obliga el otorgante su persona bienes habidos, y por haber renuncia las leyes en su favor, en defensa y con la general del derecho en forma, y confiere amplio poder á los senores juices que de este negocio deben conocer confirme á derecho para que lo aprimien á su complimiento como sentencia definitiva de juez competente pasada en autoridad de cosa jusgada y consentida que portal la recibe y la firmó, con migo y los de mi asistencia, siendo los instrumentales los Ciudadanos Juan Camarillo, Diego Fernandez, Fransc'o Carrillo, presentes y vecinos de este puerto. Hecho en papel comun por no haber del sellado que corresponde.

Ante mi, LUIS CARILLO.
AUGUSTIN DAVILA,
MARIA AN'TA DE LA GUERRA
DE LATAILLADE.

Ass'a: ISAAC J. SPARKS.
Ass'a: JOSE LUGO.

Certifico que en este lugar no se halla papel sellado de ninguna clase.

S'n Barbara, Ag'to 24, 1847.

LUIS CARILLO.

Filed in office, Dec'r 31, 1852.

GEO. FISHER, *Sec'y.*

"D."—*Translation of Title.*

Stamp first, Eight dollars.

Provisionally authorized by the maritime custom-house of the port of Monterey, in the department of Californias, for the years one thousand eight hundred and forty-four and one thousand eight hundred and forty five.

[Maritime cust m house of Monterey.] (Signed) MICHELTORENO,
(Signed) PABLO DE LA GUERRA.

Pio Pico, Señor vocal of the departmental assembly, and *ex officio* provisional governor of the Californias.

Whereas, Don Agustin Davilo has, for his own personal benefit and that of *of* his family, petitioned for the land known by the name "Corral del Cuate," the proper examinations having been previously made as required by laws and regulations on the matter, using the faculties which are conferred on me in the name of the Mexican nation, I have by decree of this day granted him the aforesaid land, declaring to him the ownership of it by these presents, in conformity with the law of August 18th, 1824, and regulations of November 21st,

1828, subject to the approval of the most excellent departmental assembly, and under the following conditions:

1st. He may enclose it without prejudice to the cross-roads, roads and servitudes, and make such use and cultivation of it as he may think proper, but within one year he shall build a house on it, which shall be inhabited, and occupy it with a corresponding quantity of self-moving property.

2d. He shall not in any manner injure the wild cattle or its increase which the mission of Santa Ynez has or may have on the land granted, the lessees of which (mission) shall have the exclusive right of taking and caring for that cattle as they may think best, without any hindrance from the grantee.

3d. The mission of Santa Ynez or its lessees shall have the right to keep and pasture on the same land granted them, horses, whether wild or tame, and their increase, as well as the oxen which are recognised as belonging to said mission.

4th The present grant is, and shall be, subject to the boundaries of the land of Don Joaquin Carillo, Don José Maria Covarrubias, Don Octiviano Gutierez, Don Julian Foxon, those of the "Coligio Episcopal," and of the Indians Antonio and Marcelino; and, therefore, the grantee shall respect said boundaries, as shown by the judicial possession, which said persons and Episcopal college may respectively have.

5. When required by the departmental government to do so, the grantee shall pay by way of indemnity for the corral which the mission of Santa Ynez has on the land granted, the sum of "one hundred dollars" to any of the creditors of said mission.

6. The land granted in donation is in extent only three "sitios de ganado mayor," (three square leagues.) The proper magistrate shall give him possession in conformity with the ordinance, commencing from the boundary with Don Julian Foxon; and if there should be any surplus of land, it shall remain for the benefit of the nation and for its convenient uses.

7. If he shall contravene these conditions, he shall lose his right to the land, and it may be denounced by another person.

In consequence, I order that this title being held as firm and valid, note be made of it in the proper book, and it be delivered to the party interested for his security and other purposes.

Given in the city of Los Angeles, this fourteenth of November, one thousand eight hundred and forty-five.

(Signed) PIO PICO.

(Signed) JOSE MARIA COVARRUBIAS, *Secretary.*

Note has been made of this title in the proper book.

Angeles, date as above.

(Signed) COVARRUBIAS.

His excellency the governor directs that note be made of this order in the sub-prefecture of Santa Barbara.

(Signed) COVARRUBIAS.

In compliance with the foregoing superior order, note has been made of this title in the proper book in this sub-prefecture.

(Signed) ANASTASIO CARILLO.

Santa Barbara, November 25th, 1845.

Filed in office, April 20, 1852.

GEO. FISHER, *Sec'y.*

"F."—*Translation of Transfer Deed.*

In the port of Santa Barbara on the 24th day of the month of August, one thousand eight hundred and fifty-seven, before me, Luis Carillo, second magistrate of this partido, acting as first in the absence of the regular judge, and before the witnesses of my assistance, with whom I act in virtue of my office for want of a notary public, besides the witnesses to the instrument, who at the end will be named, appeared citizen Augustin Davila, whom I certify I know, and said, that for himself, and in the name of his heirs and successors, and whoever of them might have title, claim or right in any manner, he sells and grants in real sale and perpetual alienation, with the right of inheritance forever, to *to* Doña Maria Antonia de la Guerra de Lataillade, whom I certify I know, present and accepting, and to hers, the rancho which he owns in fee, known by the name of "Corral de Cuate," in the jurisdiction of Santa Ynez, and which is bounded on the north by the rancho of Julian Foxon, on the south by that of Dn. Joaquin Carillo and that of Don José Maria Covarrubias, east by that of the Indian Marcelino and the Episcopal college, and on the west by the lands of Octiviano Gutierez. Said land contains three "sitios de ganado mayor," (three square leagues,) of all which he makes delivery under form to Doña Maria Antonia de la Guerra de Lataillade, and with them a log house, a vineyard and fences for crops, excepting only the self-moving property; his right to which rancho is by grant from the departmental government, dated November fourteenth, one thousand eight hundred and forty-five, by which title it belongs to him in possession and fee; and he declares and assures that it has not been sold, alienated, or pledged, either entire or in part, and that it is free from any tribute, religious or charitable tax, entail, pledge, or other incumbrance, whether real, perpetual, temporal, special, general, tacit, or expressed, and as such he sells it, leaving it to be delivered in the form and manner which they have particularly agreed upon, for the sum of nine hundred dollars, part of which he, the vendor, declares he has received by an agreement entered into with the purchaser, and the rest in three months, and therefore renounces the exception which might otherwise be taken from its not being counted in presence, law 7, title 10, part 5th, and executes in favor of the purchaser the most firm and effective receipt which can conduce to her security; and the vendor likewise declares that he has made this sale because, for want of means, he was not able to occupy it, and was thence liable to be denounced; and he also asserts

that he has received, and will receive, the nine hundred dollars from Doña Maria Antonia de la Guerra de Lataillade, by way of indemnification voluntarily made, and that he found no person who would give more for the said place; and if it is or may be worth more, of the excess, be it large or small, he makes in favor of the purchaser, her heirs and successors, gift and donation pure, simple, perpetual, and irrevocable, in good faith with judicial intervention, and other legal forms, and renounces law 2d, title 10, book 10, of the "Recopilacion," which treats of contracts of sale, exchange, and others in which there is lesion in more or less than half the just value of the property, and considers as past the four years specified in it in which to claim restitution of the property, or what was wanting of its full value; and from this time forth forever, he, for himself, his heirs, and successors, gives up the possession, deserts and retires from the dominion, ownership, and possession which pertain to him in the aforementioned land, and conveys, renounces, and transfers it, with the actions, real and personal, useful, mixed, direct, and effective to the purchaser, and whoever may represent her, that she may possess it, exchange, alienate, use, and dispose of it at her will as of her own property acquired by just and legal title; and he confers on her irrevocable power, with free, full, and general administration, and constitutes her his attorney in fact; that either of her own authority or judicially she may enter upon, and take possession of, the said rancho of "Corral del Cuate," and take and hold the real tenure and possession which legally belongs to her; and that it may not be necessary for her to take it, he, the vendor, prays that an authorized copy of this renting be given to her, by which, without any other act, it may be seen to have been taken, seized, and transferred to her, and in the mean time he constitutes himself her tenant and temporary possessor of it in legal form, and binds himself that said rancho shall be certain, sure, and effective to the purchaser, and that no one shall disturb her, or bring suit against her ownership, possession, enjoyment, or benefit, nor shall any incumbrance appear against the land; and if she should be disturbed, or suit brought, or incumbrance appear, immediately that the vendor or his heirs and successors shall be required in conformity with law, they shall come forward in her defence, and pursue it at their own expense in all courts and tribunals until they obtain judgment in her favor, and leave her the purchaser, and hers the free use, quiet and peaceable possession.

And if he shall not be able to accomplish this he will give her another equal to the place in value, rent and convenience, and in default of such he will restore her the sum she has expended, with all improvements, useful, necessary and voluntary, which at that time there may be, (on the rancho,) with the increased value which in time it may have acquired, and all the costs, expenses and damages which may accrue or be caused to her, all of which may be executed in virtue of this writing, and the oath of him or them who may represent her, to whom he leaves it to fix the value, and he relieves her of other proof;

and to the observance of all the foregoing the vendor binds his person, his property in present possession, or which he may hereafter obtain. And he renounces the laws in his favor and defence, and the legal exceptions in form, and confers ample power on the magistrate who by law ought to take cognisance of this matter to compel him to comply with it as a definite sentence of a competent judge, passed in authority of *res judicata*, and consented to, for as such he receives it; and he signed with me and the assisting witnesses, the witnesses to the instrument being citizens Juan Camarillo, Diego Fernandez, Francisco Carillo, present and residents of this place. Executed on common paper for want of that of the corresponding stamp.

(Signed) LUIS CARILLO,
(Signed) AGUSTIN DAVILA,
(Signed) M'A ANT'A DE LA GUERRA DE LA'TAILLADE.

Attesting witnesses:
(Sg'd) ISAAC J. SPARKS,
(Sg'd) JOSE LUGO.

I certify that in this place there is no stamped paper of any kind.
Santa Barbara, August 24, 1847.
(Signed) LUIS CARILLO.

Filed in office, April 20th, 1852.

GEO. FISHER, *Sec'y.*

Opinion.

MARIA ANTONIA DE LA GUERRA Y LATAILLADE vs. THE UNITED STATES. } For the place called "Corral de Cuate," containing three square leagues.

The petitioner claims title from Agustin Davila, who petitioned for the land in April, 1845, and obtained a grant from Governor Pio Pico, dated November 14th, 1845, a traced copy of the espediente and the original grant, duly proved, are given in evidence. A conveyance of the land by Davila to the present claimant, duly proved, is presented, bearing date the 24th day of August, 1847.

The deposition of José Maria Covarrubias proves that the signatures to the documents above-mentioned are genuine, and that said Davila went into the occupancy of the land granted, very soon after the grant, and that he planted a vineyard on it. In the deed of sale by Davila to the present claimant, a log house, a vineyard, and fences for crops on the land, are enumerated as a part of the property transferred.

It is also proved that since 1847 the present claimant has occupied the place with a house, cattle and horses; the grant contains no conditions against alienation. The grant contains a condition or rather res-

ervation of the right of the Mission of Santa Ynez to certain restrictive uses of the land for their cattle. It seems from the documents in the case, that the mission made no claim to a right to the land, but reported that the establishment would not be prejudiced by the grant The reservation for occupancy by the cattle of the mission attracted the attention of the departmental assembly when acting on the case, and the committee on vacant land made a report denying all right to such a reservation, and recommending an approval of the grant with the suppression of all the conditions in favor of the mission. This report was made near the close of the existence of the departmental assembly, and no further action on the subject in that body appears.

Another case is referred to in the report of the committee where such conditions were expressly repudiated by the assembly.

There does not seem to me, on examination of all the papers, to have been any objection arising from any rights or interest of the mission to making the grant in the usual terms of concession under the law and regulations, and it is therefore doubtful whether such reservation could, with any propriety or force, be introduced into the grant. But, however the question may be of power, I can regard the privilege therein reserved in the light only of a restrictive privilege of temporary occupancy, which it was contemplated by the parties would before long cease altogether.

The occasion of it has long since passed away, the establishment of the mission itself has ceased to exist, and the claimant cannot now be prejudiced by the restriction without manifest injustice.

The lands granted are defined by metes and bounds, and in such terms that they can be so described in the decree that the surveyor will find no difficulty in understanding the calls and running the lines.

The claim is confirmed.

GEO. FISHER, *Sec'y.*

Filed in office, Nov. 22, 1853.

Decree.

MARIA ANTONIA DE LA GUERRA Y LATAILLADE
vs.
THE UNITED STATES.

In this case, on hearing the proofs and allegations, it is adjudged by the commission, that the said claim of the petitioner is valid, and it is therefore hereby decreed that the same be confirmed. The land of which confirmation is hereby made is that known by the name of "Corral del Cuate," being the same now occupied by said claimant, and bounded as follows, to wit: On the north side by the south line of the land known as the land of Julian Foxon and the land of the Indian Antonio; on the east by the west line of said Antonio's land, that of the Indian Marcelino, and that known as the Episcopal college; on the west by the east line of the land of Octiviano Gutierez, and on the south by a line drawn parallel with the said line of Julian Foxon

above-mentioned, and at such a distance from it as to comprise within the boundaries above-described three square leagues of land, excepting and reserving therefrom any and all portions of the lands of the rancho of Joaquin Carillo and José M'a Covarrubias, or either of them, which may be found to be within the boundaries above described, and the exterior premises hereby confirmed to said claimant are subject to the said boundaries of said adjoining lands as the same *as the same* have been heretofore determined and located by judicial measurement, or as the same shall hereafter be located under the confirmation of this commission; and in default of either, then as the same were known and recognised to be bounded in the year 1845.

Reference for more particular description of the lands hereby confirmed to be had to the grant of said land by Governor Pio Pico, November 14th, 1845, to Agustin Davila, and to the map of the same contained in the espediente, a copy of which, together with said original grant, is on file in this case.

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUG. THOMPSON,
Commissioners.

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle private land claims in the State of California.

I, Geo. Fisher, secretary to the Board of Commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing thirty-seven pages, numbered from 1 to 37, both inclusive, to contain a true, correct and full transcript of the record of the proceedings, and of the decision of the said board, of the documentary evidence and of the testimony of the witnesses, upon which the same is founded, on file in this office, in case No 189 on the docket of the said board, wherein Maria Antonia de la Guerra y Lataillade is the claimant, against the United States, for the place known by the name of "Corral de Cuate."

In testimony whereof I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, California, this twenty second day of August, A. D. 1854, and of the independence of the United States of America the seventy-ninth.

(Signed) GEO. FISHER, *Sec'y.*

UNITED STATES DISTRICT COURT,
Southern District of California.

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, do hereby certify that the fore-

going 38 pages, numbered from 1 to 38, both inclusive, contain a full, true and correct copy of transcript No. 189, filed in this office, wherein Antonia Maria de la Guerra y Lataillade is appellee, and The United States are appellants, for "Corral de Cuate."

In testimony whereof, I have hereunto set my hand, and affixed the seal of said court, at Los Angeles, California, this 20th day of December, A. D. 1855, and of the independence of the United States of America the eightieth.

[SEAL.]

C. E. CARR, *Cl'k.*

UNITED STATES DISTRICT COURT,
Southern district of California.

CLERK'S OFFICE, LOS ANGELES.

M'A ANT'A DE LA GUERRA Y LATAILLADE, appellee, vs. THE UNITED STATES, appellant. } Docket No. 49.—Transcript No. 189.

Be it remembered, that on the 30th day of August, A. D. 1854, in the district court of the United States for the southern district of California, the following proceedings were had, to wit:

A duly certified transcript of the proceedings and decision, and the papers and evidence upon which the said decision was founded, of the commissioners to ascertain and settle the private land claims in the State of California, when sitting as a board, in the case wherein M'a Ant'a de le Guerra y Lataillade is the claimant against the United States, for the place named "Corral de Cuate," was received and filed, and docketed with No. 49, and is as follows, to wit:

(Vide page 1.)

LOS ANGELES, *January 10th*, 1855.

In case No. 49, Maria Antonia de la Guerra y Lataillade vs. The United States, a notice of appeal from the U. S. Attorney General was filed.

(Vide page 3.)

LOS ANGELES, *Aug. 13th*, 1855.

In the same case, the petition of the United States for review was filed.

(Vide page 3.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

Los Angeles, *Sept. 24th*, 1855.

In same case the answer of appellee was filed.

(Vide page 11.)

Los Angeles, *Sept. 26th*, 1855.

In same case the opinion of the court was delivered and the decree entered.

(Vide page 12.)

Los Angeles, *Oct. 18th*, 1855.

In same case, on motion of P. Ord, U. S. Attorney, the order for appeal was filed.

(Vide page 14.)

Office of the Attorney General of the U. States,
Washington, *30th Novembre*, 1854.

Maria Antonia de la Guerra y Lataillade vs. The United States. } 189.

Notice of Appeal.

You will please take notice, that in the above case, decided by the commissioners to ascertain and settle private land claims in the State of California, in favor of the claimant, and a transcript of the proceedings in which was received in this on the 18th day of August, 1854, the appeal in the district court of the United States for the southern district of California will be prosecuted by the United States.

(Signed) C. CUSHING,
Attorney General.

Filed January 10th, 1855.
(Signed) C. E. CARR, *Cl'k.*

In the District Court of the United States for the southern district of California.

Los Angeles county, *State of California.*

Maria Antonia de la Guerra y Lataillade ads. The United States. } No. 49.—Transcript No. 189.

Petition of United States for Review.

To the honorable Isaac S. K. Ogier, judge of the District Court of the United States for the southern district of California.

The petition of Pacificus Ord, (of Los Angeles county,) attorney of the United States for the southern district of California, who petitions

in his behalf for the United States, and being present here in court in his proper person, in the name and behalf of the United States, represents as follows:

That heretofore, to wit, on or about the 20th day of April, A. D. 1852, Maria Antonia de la Guerra y Lataillade presented a petition to the commissioners to ascertain and settle the private land claims in the State of California, claiming the tract of land called Corral de Cuarte, in the county of Santa Barbara, in the words and figures following, viz:

"The petitioner, Maria Antonia de la Guerra y Lataillade, respectfully shows:

"That on the 21st day of April, 1845, Augustin Donila applied for the tract of land called 'Corral de Cuarte,' and that said petition being approved by the subordinate authorities, Pio Pico, governor of California, by virtue of authority in him vested, on the 14th day of November, A. D. 1845, granted to the said Augustin Donila the aforesaid tract of land situated in the present county of Santa Barbara, containing three square leagues of land, with the boundaries described in the title-papers and accompanying map; that on the 9th day of June, A. D. 1846, the said title was approved in the departmental assembly, annulling the 2nd and 3rd conditions in the title, all of which is shown in the espediente, a certified copy of which is submitted herewith marked 'A,' and a translation marked 'B.' The petitioner also submits herewith a copy of the title marked 'C,' with a translation marked 'D.'

"The petitioner also shows that on the 24th day of August, A. D. 1847, the same Augustin Donila sold and conveyed to the petitioner the aforesaid tract of land, a copy of which deed of conveyance is submitted herewith marked 'E,' with a translation marked 'F.' That the said tract of land has not been surveyed by the surveyor general of the United States, but that its boundaries are fully described in the title-papers and are well known. That the said Donila and the petitioner have been since the month of November, A. D. 1845, and the petitioner now is, in the quiet, peaceful, and undisputed possession of the said tract of land, and that she knows of no conflicting claim.

"That she relies for confirmation of title upon the original papers, copies of which are submitted herewith upon the records in the archives now under the charge of the surveyor general, and upon such other and further proofs as she may be advised are necessary; wherefore she prays the commissioners to confirm to her the said tract of land."

Your petitioner further represents that thereafter, to wit, on or about the 22d day of November, A. D. 1853, the said commissioners confirmed by final decree the said claim of the said Maria Antonia de la Guerra y Lataillade, in the words and figures following, to wit:

"In this case, on hearing the proofs and allegations, it is adjudged by the commission that the said claim of the petitioner is valid, and it is

hereby therefore decreed that the same be confirmed. The land, of which confirmation is hereby made, is that known by the name of 'Corral del Cuarte,' being the same now occupied by said claimant and bounded as follows, to wit:

"On the north side by the south line of the land known as the land of Julian Foxon and the land of the Indian Antonio; on the east by the west line of said Antonio's land, that of the Indian Marcellino, and that known as the Episcopal college; on the west by the east line of the land of Octaviano Gutierr; and on the south by a line drawn parallel with the said line of Julian Foxon above mentioned, and at such a distance from it as to comprise within the boundaries above described three square leagues of land, excepting and reserving therefrom any and all portion of the lands of the rancho of Joaquin Carillo and José Maria Covarrubias, or either of them, which may be found to lie within the boundaries above described, and the exterior premises hereby confirmed to said claimant, and subject to the said boundaries of said adjoining lands as the same have been heretofore determined and located by juridical measurement, or as the same shall hereafter be located under the confirmation of this commission; and in default of either, then as the same were known and recognised to be bounded in the year 1845. Reference for more particular description of the lands hereby confirmed to be had to the grant of said land by Governor Pio Pico, November 14th, 1845, to Augustus Davila, and to the map of the same contained in the espediente, a copy of which, together with said original grant, is on file in this case.

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUG. THOMPSON,
Commissioners."

That thereafter, to wit, on the 30th day of August, A. D. 1854, a duly certified transcript of the said decree and proceedings, and the papers and evidence on which it was founded in said cause, was filed in the office of the clerk of the district court of the United States for the southern district of California, and marked No. 49, (Transcript No. 189;) reference to which it is prayed may be had, and made a part of this petition.

That on the 18th day of August, A. D. 1854, the honorable Caleb Cushing, Attorney General of the United States, received a duly certified duplicate of said transcript of said final decree and proceedings of said commissioners in said cause (No. 189), and the papers and evidence on which said decree was founded.

That thereafter, to wit, on the 10th day of January, A. D. 1855, the said Attorney General of the United States filed or caused to be filed, on behalf of the United States, a notice with the said clerk of said district court for the southern district of California, that the appeal in said cause of Maria Antonia de la Guerra y Lataillade vs. The United States, from

the decision of said commissioners to ascertain and settle the private land claims in the State of California, in the district court of the United States for the southern district of California, would be prosecuted by the United States.

Your petitioner further represents, that the said land, claimed as aforesaid, is within the jurisdiction of this honorable court.

And your petitioner further represents and insists, that the said decree of said commissioners is erroneous, and ought to be reviewed, reversed, and set aside, for many errors and imperfections of law and evidence apparent in said certified transcript of said cause, now in appeal from said commissioners to this honorable court.

And your petitioner further represents, that the said claim is invalid, and the said decree erroneous, on the following grounds:

I. And the said attorney denies all and singular each and every allegation in the said petition of said claimant to said commissioners, of said date; and he further denies that any grant for said land was ever made as alleged in said petition; and he denies further that the said claimant has shown any or sufficient evidence of the validity of the said claim.

II. That the said alleged grant of Governor Pio Pico was made in violation of the 4th article of the Colonization law of Mexico, of the 18th of August, A. D. 1824, in this—that the land granted, as alleged by claimant, was and is within ten leagues of the sea-coast; and there is no evidence shown by claimant that the supreme general executive power of Mexico previously approved of the colonization of the public lands in Upper California lying within ten leagues of the sea-coast.

And it is denied that such previous consent of said supreme general executive power of Mexico, in such cases, was ever had.

III. That at the date of the said alleged grant, the said land, claimed as aforesaid, was occupied by and in the possession of the missions of Upper California, and it was held and occupied particularly by the mission of Santa Inez, with valuable improvements and personal property, and therefore could not be colonized.

IV. That the said alleged grant has not the conditions required by, and is not made in entire conformity with, the laws of Mexico of the 18th day of April, A. D. 1824, and the regulations for the colonization of the Territories of Mexico of the 21st of November, A. D. 1824.

V. That the said alleged grant of Pio Pico, of the date of 14th November, 1845, is vague and indefinite in its description of the locality and boundaries of the said land, claimed as aforesaid, and it is void for uncertainty.

VI. That the said claimant fails to show the approval of said grant by the departmental assembly of the date of the 9th of June, 1846, as alleged in her said petition.

VII. That the said claimant fails to show a definitive grant for said land

VIII. That the said claimant fails to show that Augustin Davila, the alleged original grantee of said land, ever asked for, or received

the juridical possession of, the said land. And she also fails to show, that the said land was ever juridically segregated from the public domain of Mexico.

IX. That if the said Augustin Davila or the said claimant, ever personally occupied said land, which is denied, they did so unlawfully.

X. That there is no evidence that the said Augustin Davila built a house upon the said land, and occupied it within one year from the date of said alleged grant; and that he put upon the said land the corresponding quantity of movables, as required by the first condition of the said alleged grant. And it is denied that said Davila ever performed the said first condition of said alleged grant.

XI. That the alleged sale of said land to said claimant on the 24th of August, 1847, was made expressly by said Davila, in consequence of his not having the means to occupy the said land and comply with the conditions of said alleged grant, and to avoid its denouncement or loss; and the said alleged sale was therefore illegal and void.

XII. That there is no sufficient evidence that the said alleged grantee or claimant ever lived upon, improved, and occupied the said land.

And no sufficient proof having been made by said claimant of the allegations of her said petition, or in support of her said claim, filed as aforesaid, no decree ought to have been made or grounded thereon; but the said petition ought to have been dismissed, and said claim rejected by said commissioners, upon the grounds aforesaid.

And the said claimant having no valid right or title, derived from the Spanish or Mexican government, to the said land claimed by her, as aforesaid, the lawful right or title in and to the said land was acquired by, and it now belongs to, the said United States, by virtue of the treaty of peace, friendship, limits, and settlement, with the republic of Mexico, dated at the city of Gaudalupe Hidalgo, February 2d, A. D. 1848.

Wherefore, the said Pacificus Ord, attorney of the United States for the southern district of California, for and in behalf of the U. States, by reason of the promises, and in pursuance of the act of Congress entitled "An act to ascertain and settle the private land claims in the State of California," approved March 3d, A. D. 1851, and the laws and statutes in such cases made and provided, prays that the said Maria Antonia de la Guerra y Lataillade may be served with a copy of this petition; and that this honorable court will review the said decision or final decree of confirmation of said commissioners to ascertain and settle the private land claims in the State of California, and decide on the validity of the said claim of said Maria Antonia de la Guerra y Lataillade, for said land claimed and confirmed as aforesaid, and that the same may be decreed invalid. And all such other orders, judgments, or decrees, as may be just, with costs and general relief.

(Sig'd) P. ORD,
Attorney of the United States
for the southern district of California.

Filed Aug't 13th, 1855.
(Sig'd) C. E. CARR, *Clk.*

In the United States District Court for the southern district of California.

THE UNITED STATES, appellant,
vs.
MARIA ANTONIA DE LA GUERRA Y LATAILLADE, appellee.
} No. 49.—Answer of Appellee.

Answer.

Maria Antonia de la Guerra y Lataillade, appellee, appears by her attorneys, and for answer to the petition of the United States, filed herein, says: That her title to the land called "Corral de Cuarte," as set forth and described in her petition to the United States board of commissioners, and in the documentary and other evidence in this case, is a good and valid title; and she prays this honorable court to affirm the decision of the board of commissioners, and to decree her title to be valid.

(Sig'd) HALLECK, PEACHY, & BILLINGS,
Attys. for Appellee.

Los Angeles, Sept. 22, 1855.
Filed Sept. 24th, 1855.
(Sig'd) C. E. CARR, *Clk.*

District Court of the United States, southern district of California.

MARIA ANTONIA DE LA GUERRA Y LATAILLADE, appellee, ads. THE UNITED STATES, appellant.
} No. 49.—For Corral del Cuarte.

Decree.

This cause coming on to be heard before a stated term of said court, on appeal from the final decision of the commissioners to ascertain and settle private land claims in the State of California, under an act of Congress approved 3d of March, 1851, on the transcript of the proceedings and decision, and of the papers and evidence on which said decision was founded, and it appearing to the court that the said transcript has been duly filed according, and counsel for the respective parties having been heard, it is ordered, adjudged, and decreed, that said decision be in all things affirmed; and it is further ordered, adjudged, and decreed, that the claim of said appellant is a valid one, and that the same is hereby confirmed in and to a tract of land known by the name of Corral del Cuarte, being the same now occupied by appellant, and bounded on the north by the south line of the land known as the land of Julian Foxon, and the land of the Indian Antonio; on the east by the west line of said Antonio's land, that of the Indian Marcellino, and that known as the Episcopal college; on the west by the east line of the land of Octaviano Gutierr, and on the south by a line parallel with the said line of said Julian Foxon, at such a distance from it as to comprise within the boundaries above described three square leagues of land,

excepting and reserving therefrom any and all portions of the lands known as the Ranchos Joaquin Carrillo and José Maria Covarrubias, or either of them, which may be found to lie within the boundaries above described, and the premises; and the premises hereby confirmed are subject to the said boundaries of said adjoining lands, as the same have been heretofore measured and located by judicial measurement. Reference for more particular description of said land to be had to the grant and map, copies of which are of file in the record in this case.

(Sig'd) M. HALL McALLISTER,
Judge of Circuit Court U. S. for the district of California.

Filed Sept. 26th, 1855.
(Signed) C. E. CARR, *Clk.*

In the United States District Court for the southern district of California.
Special Term, Sept. 1855—Los Angeles.

MARIA ANT'A DE LA GUERRA Y LATAILLADE, app'ee, ads. THE UNITED STATES, app't. } No. 49.—Transcript No. 189.

Order of Appeal.

On motion of P. Ord, attorney of the United States for the southern district of California, it is ordered by the court that an appeal be granted the United States, to the Supreme Court of the United States from the judgment of this court, against the United States in the above entitled cause, rendered on or about the 26th day of September A. D. 1855.

(Signed) P. ORD,
U. S. Dist. Att'y.

Filed Oct. 18th, 1855.
(Sig'd) C. E. CARR, *Cl'k.*

UNITED STATES DISTRICT COURT,
Southern district of California:
CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, do hereby certify the foregoing fourteen pages, numbered from 1 to 14, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of the said court, of the documentary evidence, and of testimony of witnesses upon which the same is founded, on file in this office, in case No. 49 on the docket of the said court, wherein M'a Ant'a de la Guerra y Lataillade is appellee, and the United States are appellants, for "Corral de Cuate."

[SEAL.] In testimony whereof, I have hereunto set my hand and affixed the seal of said court at Los Angeles, California, this twentieth day of December, A. D. 1855, and of the independence of the United States of America the eightieth.

C. E. CARR, *Cl'k.*